

**ARLO Deadline Calendar**  
**Week of May 20, 2019**

**NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES**

**NEW CASES**

- *Association of Irrigated Residents v. Wheeler*, No. 19-71223 (9<sup>th</sup> Cir.) (petition for review with regards to EPA's action on a 2008 ozone NAAQS SIP for the San Joaquin Valley nonattainment area in California) (Karen Bianco)

**NOTICES OF CITIZEN SUIT**

**PETITIONS**

- Petition filed on April 3, 2019, on behalf of Food & Water Watch to list GHGs under section 112 as hazardous air pollutants.
- SO<sub>2</sub> NAAQS – Aluminum Association's Petition for Reconsideration

**NEW DECISIONS and SETTLEMENTS**

- Joint stipulation of voluntary dismissal in *State of North Dakota, et al., v. Wheeler*, No. 1:13-cv-109 (D. N.D.) (deadline suit to compel area designations under 2010 SO<sub>2</sub> primary NAAQS)

**UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES**

**UPCOMING LITIGATION DEADLINES**

**In the coming two weeks**

- 05/20 Status Report  
*Kaiser Aluminum Corporation v. EPA*, No. 15-1423 (DC Cir.) (petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56,700 (September 18, 2015)) (Emily Seidman)
- 05/22 Status Report  
*Mossville Environmental Action Now, et al. v. EPA*, No. 12-1263 (D.C. Cir.) (Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production," 77 Fed. Reg. 22,848 (April 17, 2012) (Susmita Dubey)
- 05/24 Answer  
*Wildearth Guardians v. Wheeler*, No. 1:19-cv-00897-JLK (D. Colo.) (for failure to determine whether the Denver Metro-North Front Range Area complied with the 2008 ozone NAAQS by the July 20, 2018 attainment deadline) (Kaytrue Ting)

- 05/27 Status Report  
***National Alliance of Forest Owners, et al. v. EPA***; No. 10-1209 (D.C. Cir.) (NAFO/AFPA PETITION RE BIOGENIC EMISSIONS UNDER TAILORING RULE - Challenge to EPA's treatment of Biogenic Emissions in Tailoring Rule, 75 Fed. Reg. 31, 514 (June 3, 2010) (Nora Greenglass))
- 05/28 Status Report  
***Gas Processors Association v. EPA***, No. 11-1023 (D.C. Cir.) (petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System' 75 FR 74,458 (Nov. 30, 2010)) (Andrea Carrillo)
- 05/28 Status Report  
***American Petroleum Institute v. EPA***, No. 15-1020 (DC Cir.) (Petition for Review of "Greenhouse Gas Reporting rule: 2014 Revisions and Confidentiality Determinations from Petroleum and Natural Gas Systems," 79 Fed. Reg. 70352 (Nov. 25, 2014) (Andrea Carrillo))
- 05/28 Status Report  
***Gas Processors Association v. EPA***, No. 15-1473 (DC Cir.) (petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015)) (Andrea Carrillo)
- 05/31 Status Report  
***State of Texas, et al. v. EPA***, No. 16-60118 (5th Cir.) (Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans, Texas and Oklahoma, Regional Haze State Implementation Plans, Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze, Federal Implementation Plan for Regional Haze, Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016)) (Daniel Schramm, Nora Greenglass)
- 05/31 Answer  
***Center for Biological Diversity, et al. v. EPA***, No. 4:19-cv-01544-KAW (N.D. CA) (alleging that EPA failed to perform its mandatory duties to reclassify to serious the West Central Pinal (AZ) 2006 24- hour PM2.5 Nonattainment Area, to promulgate a FIP and impose sanctions for Arizona's NSR program defects, and to make findings of failure to submit for the Provo and Salt Lake City, Utah serious 2006 24-hour averaging time PM2.5 Nonattainment Areas.) (Stephanie Hogan)
- 06/01 Status Report  
***Conservation Law Foundation; et al. v. EPA***, No. 13-1233 (D.C. Cir.) (Petition for Review of NSPS and NESHAP emergency engine provisions allowing 50 hours of operation for local reliability) (Sheila Igoe)
- 06/03 Status Report  
***Utility Air Regulatory Group, et al. v. EPA***, No. 04-1076 (D.C. Cir.) (Petition for review of final rule promulgating monitoring requirements for particulate matter continuous emissions monitoring systems at new stationary sources) (Amy Branning)

### Deadlines beyond two weeks

- 06/04 Oral Argument  
*Kelsey Cascadia Rose Juliana, et al. v. United States of America*, No. 18-80176 (9th Cir.)  
(Appeal from the United States District Court for the District of Oregon (No. 6:15-cv-01517-AA alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change, Portland, Ore.) (Daniel Conrad, Melina Williams, Zach Pilchen)
- 06/10 Oral Argument  
*Environmental Integrity Project v. EPA*, No. 18-60384 (5th Cir.) (petition for review of EPA's Title V order in the Matter of ExxonMobil Corporation – Baytown Olefins Plant at 83 Fed. Reg. 12753 (March 23, 2018)) (Emily Seidman)
- 06/10 Status Report  
*State of Utah, et al. v. EPA*, No. 16-9541 (10th Cir.) (petition for review of EPA's final rule entitled "Approval, Disapproval and Promulgation of Air Quality Implementation Plans, Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Federal Implementation Plan, Utah, Revisions to Regional Haze State Implementation Plan, Federal Implementation Plan for Regional Haze" at 81 Fed. Reg. 43,894-01 (July 5, 2016)) (Nora Greenglass)
- 06/10 Status Report  
*National Parks Conservation Association, et al. v. EPA*, No. 17-1253 (D.C. Cir.) (challenge to reaffirmation of CSAPR>BART/ the Texas Remand Rule) (Daniel Schramm)
- 06/10 Status Report  
*American Petroleum Institute, et al. v. EPA*, No. 13-1108 (DC Cir.) (Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidated with challenges to 2014 NSPS amendment and 2016 NSPS setting methane standards)) (Amy Branning)
- 06/11 Status Report  
*National Environmental Development Association's Clean Air Project v. EPA*, No. 17-1016 (D.C. Cir.) (petition for review challenging revisions to the refrigerant management regulations under CAA section 608) (Melina Williams)
- 06/13 Oral Argument  
*Sierra Club, et al. v. EPA*, No. 18-60116 (5th Cir.) (Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans, Louisiana, Regional Haze State Implementation Plan," 82 Fed. Reg. 60,520 (Dec. 21, 2017)) (Daniel Schramm, Nora Greenglass)
- 06/14 EPA Brief  
*State of New York, et al. v. EPA*, No. 19-1019 (D.C. Cir.) (petition for review of EPA's final action titled "Determination Regarding Good Neighbor Obligations for the 2008 Ozone National Ambient Air Quality Standard" at 83 Fed. Reg. 65,878 (Dec. 21, 2018)) (Stephanie Hogan, Kaytrue Ting, Dan Schramm)
- 06/17 Status Report  
*National Parks Conservation Association, et al. v. EPA*, No. 1:11-cv-1548 (D. D.C.) (Complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39

- states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs) (Daniel Schramm, Nora Greenglass)
- 06/18 Answer  
*State of New York v. EPA*, No. 1:19-cv-03287-JMF (S.D. N.Y.) (failure to make a finding or deny the 126 Petition from New York to address the interstate transport of ozone pollution (Abi Vijayan)
- 06/19 EPA's Brief  
*Crossett Concerned Citizens for Environmental Justice, et al. v. EPA*, No. 17-1257 (D.C. Cir.) (PULP AND PAPER SUBPART MM RTR RULE CHALLENGE - petition for review of EPA's final action titled "National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills" 82 Fed. Reg. 47,328 (Oct. 11, 2017)) (Scott Jordan)
- 06/21 Status Report  
*American Chemistry Council et al v. EPA*, No. 08-1014 (D.C. Cir.) (Petitions for review of 2007 revisions to NSPS for Leak Detection and Repair for refineries and chemical processing plants) (Amy Branning)
- 06/24 EPA's Brief  
*Sierra Club v. EPA*, No. 18-5328 (DC Cir.) (appeal of the CISWI/OSWI deadline suit (16-2461) - appealing the holding that there is no mandatory duty with respect to the federal plan obligation) (Jan Tierney, Karen Bianco)
- 06/26 Brief of Respondents  
*State of Maryland v. EPA*, No. 18-1285 (D.C. Cir.) (petition for review of EPA's final agency action entitled "Response to Clean Air Act Section 126(b) Petitions From Delaware and Maryland" at 83 Fed. Reg. 50,444 (October 5, 2018)) (Abi Vijayan)
- 07/02 Status Report  
*State of Texas, et al. v. EPA*, No. 17-60088 (5th Cir.) (Petition for review of final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016) (Andrea Carrillo)
- 07/08 Combined Opposition to Plaintiffs' Motion for Summary Judgment and Cross-Motion for Summary Judgment  
*Center for Biological Diversity, et al. v. EPA*, No. 3:18-cv-03544-DMR (N.D. CA, (Alleging failure to take action on 17 pending 2010 SO<sub>2</sub> SIPs for nonattainment areas in 9 states (Florida, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, West Virginia, and Wisconsin) and failure to issue findings of failure to submit regarding 2 overdue 1972 SO<sub>2</sub> SIPs for nonattainment areas in 2 states (Arizona and New Jersey) (Mike Thrift)
- 07/08 EPA's Response and Cross-Motion for Summary Judgment  
*Citizens For Clean Air, et al. v. EPA*, No. 2:18-cv-01803 (W.D. WA) (for failure to make a completeness determination regarding the state of Alaska's failure to timely submit a proposed SIP addressing requirements newly triggered by EPA's designation of the Fairbanks North Star

- Borough as a 2006 24-hour fine particulate matter “Serious” nonattainment area) (Geoffrey Wilcox)
- 07/09 Status report  
*American Bakers Association v. EPA*, No. 17-1264 (D.C. Cir.) (petition for review of Yeast Manufacturing RTR) (Nora Greenglass)
- 07/11 Status Report  
*State of Texas, et al. v. EPA*, No. 16-60670 (5th Cir.) (petition for review of EPA’s final action titled “Approval and Promulgation of Air Quality Implementation Plans, Texas, Interstate Transport of Air Pollution for the 2008 Ozone National Ambient Air Quality Standards” at 81 Fed. Reg. 53,284 (August 12, 2016)) (Abi Vijayan)
- 07/15 Respondent's Final Brief  
*Clean Wisconsin, et al. v. EPA*, No. 18-1203 (D.C. Cir.) (petition for review of EPA's final action titled “Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards” at 83 Fed. Reg. 25,776 (June 4, 2018)) (Seth Buchsbaum)
- 07/26 Motion to Govern Further Proceedings  
*Downwinders at Risk, et al. v. EPA*, No. 18-1260 (D.C. Cir.) (petition for review of EPA's final action titled “National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review” at 83 Fed. Reg. 35,122 (July 25, 2018)) (Jonathan Averbach)
- 07/29 Status Report  
*Biogenic CO2 Coalition v. EPA*, No. 16-1358 (DC Cir.) (challenge to endangerment finding for GHG from aircraft) (Melina Williams)
- 07/30 Status Report  
*State of Texas, et al. v. EPA*, No. 16-1078 (DC Cir.) (Petition for review of EPA’s final action titled “Approval and Promulgation of Implementation Plans, Texas and Oklahoma, Regional Haze State Implementation Plans, Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze, Federal Implementation Plan for Regional Haze, Final Rule,” 81 Fed. Reg. 296 (Jan. 5, 2016)) (Daniel Schramm, Nora Greenglass)
- 08/06 Defendants' Reply in Support of Cross-Motion for Summary Judgment  
*Citizens For Clean Air, et al. v. EPA*, No. 2:18-cv-01803 (W.D. WA) (for failure to make a completeness determination regarding the state of Alaska’s failure to timely submit a proposed SIP addressing requirements newly triggered by EPA’s designation of the Fairbanks North Star Borough as a 2006 24-hour fine particulate matter “Serious” nonattainment area) (Geoffrey Wilcox)
- 09/26 Answer  
*Center for Biological Diversity, et al. v. EPA*, No. 19-70340 (9th Cir.) (petition for review of EPA's final action entitled “Clean Air Act Prevention of Significant Deterioration Permit Issued to Palmdale Energy LLC for the Palmdale Energy Project” at 83 Fed. Reg. 63,638 (Dec. 11, 2018)) (John Krallman, Mark Kataoka)

#### **UPCOMING COURT-ORDERED AND RELATED DEADLINES**

## CASES and MAJOR MOTIONS AWAITING DECISION

- ***State of West Virginia, et al. v. EPA***, No. 15-1363 (D.C. Cir.) CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." (Scott Jordan) (argued September 27, 2016)
- ***United States Steel Corporation v. EPA***, No. 16-2668 (8th Cir.) (Petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants," 81 Fed. Reg. 21,672 (Apr. 12, 2016)) (Matthew Marks) (argued Nov. 15, 2017)
- ***Wisconsin v. EPA***, No. 16-1406 (D.C. Cir.) (petition for review of EPA's Final Rule titled "Cross State Air Pollution Rule Update for the 2008 Ozone NAAQS" 81 Fed. Reg. 74, 504 (October 26, 2016) (Stephanie Hogan, Dan Schramm, Kaytrue Ting) (argued October 3, 2018)
- ***Alon Refining Krotz Springs, Inc., et al. v. EPA***, No. 16-1052 (DC Cir.) and ***Coffeyville Resources Refining & Marketing, LLC, et al. v. EPA***, No. 17-1044, (D.C. Cir.) (petition for review of EPA's rule entitled EPA; Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14, 670 (Mar. 26, 2010)) (challenging RFS point of obligation) (Roland Dubois, Ryland Li) (argued October 5, 2018)
- ***State of California v. EPA***, No. 4:18-cv-03237-HSG (N.D. CA.) Hearing on EPA's Motion to Dismiss Plaintiff's Mandatory Duty Suit regarding Municipal Solid Waste Landfills Emission Guidelines based on lack of jurisdiction and failure to state a claim. (Karen Palmer) (hearing October 25, 2018)
- ***Valero Energy Corporation v. EPA***, No. 18-1028 (D.C. Cir.) (petition for review of EPA's final action entitled Periodic Reviews for the Renewable Fuel Standard Program, notice of which was published in the Federal Register at 82 Fed. Reg. 58; 364 (Dec. 12, 2017)) (Ryland Li) (argued November 08, 2018)
- ***Sierra Club v. EPA***, No. 16-1158 (D.C. Cir) (Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) (Jonathan Skinner-Thompson) (argued December 10, 2018)
- ***Murray Energy Corporation v. EPA***, No. 15-1385 (DC Cir.) (Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015)) (Melina Williams) (argued December 12, 2018)
- ***American Fuel & Petrochemical Manufacturers, et al. v. EPA***, No. 17-1258 (D.C. Cir.) (petition for review of EPA's final action titled "Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019" at 82 Fed. Reg. 58,486-58,527 on December 12, 2017) (Ryland Li) (argued February 20, 2019)
- ***California Communities Against Toxics, et al. v. EPA***, No. 18-1085 (DC Cir.) (MACT MAJOR TO AREA/ONCE-IN-ALWAYS-IN MEMORANDUM LITIGATION - Memorandum from William Wehrum, dated January 25, 2018, entitled "Issuance of Guidance Memorandum, 'Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act' and Federal Register notice published at 83 Fed Reg 5543 (Feb. 8, 2018) (Scott Jordan) (argued April 1, 2019)
- ***State of California, et al. v. EPA***, No. 3:18-cv-03237-SK (N.D. CA) (for failure to enforce the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (Karen Palmer) (hearing April 25, 2019)
- ***Sierra Club v. EPA***, 18-1038 (D.C. Cir.) petition for review of EPA's final action in In the Matter of PacifiCorp Energy - Hunter Power Plant, Emery County, Utah at 82 Fed. Reg. 58196 (Dec. 11, 2017) (John Krallman) (argued May 1, 2019)

- *Natural Resources Defense Council v. EPA*, No. 18-1172 (D.C. Cir.) (petition for review of EPA's notice in the Federal Register titled "Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program" explaining the effect of the Court's partial vacatur of EPA's final rule prohibiting certain uses of hydrofluorocarbons (83 Fed. Reg. 18, 431 (April 27, 2018) (argued May 3, 2019)
- *Producers of Renewables United for Integrity Truth and Transparency v. EPA*, No. 18-1202 (D.C. Cir.) (petition for review of EPA's final agency action to allow the generation of RINs for the RFS program that do not represent biofuel production in the year the RIN was generated (Susan Stahle) (argued May 7, 2019)